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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

REICHLE, KARIN M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3761

DATE MAILED: 04/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/865,836

Applicant(s)

DALEY ET AL.

Examiner

Karin M. Reichle

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-- **Th MAILING DATE of this communication app ars on th cover sheet with the correspondence address --**
Period for R ply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 23 January 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

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1. The marked up copy of claim 2 does not comply with 37 CFR 1.121. The Examiner has made the appropriate changes thereto in red ink to bring it into compliance.
2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 1-21-03 have been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.
3. The abstract would be in better form if on line 3, "the target" were changed to --a target--
4. The disclosure is objected to because of the following informalities: As set forth at the bottom of page 6 of Applicant's response the "target area" is part of the liner, "below the target area" refers to the layers directly below the target area of the liner and the areas "outside the target area" are those not directly below the target area, i.e. laterally outward of the area directly below the target area. However, the Figures, the description and the claims do not set forth such consistently. For example, the area below the target area is an area outside the target area so this should be clearly distinguished from the remaining areas outside of the target area, see, e.g., page 4, lines 12-14. The cross sections in Figures 2a and 2b do not show and/or denote the target area, the areas below the target area and the areas outside the target areas. Also see page 14, lines 15-22, page 15, lines 3-4 and paragraph bridging pages 15-16, i.e. they refer to the target area other than as discussed by Applicant, i.e. target area part of core. Note also claims 1-11. A consistent description of the invention, e.g. use of terminology consistently, should be provided throughout the entire specification. See MPEP 608.01(o). Appropriate correction is required.

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5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: for the reasons discussed in the preceding paragraph, a clear antecedent basis for the invention of the claims should be set forth, i.e. what constitutes the target area, outside the target area, below the target area.

6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the invention as claimed in claims 1-11, as best understood, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

See discussion in preceding two paragraphs, and, e.g., where is the differing density as claimed in claims 2 and 11 shown?, the differing amounts of superabsorbent, etc.?

7. Claims 2 and 11 are objected to because of the following informalities: on line 2 of these claims, change "outside" to --in the area outside the area corresponding to--. Appropriate correction is required.

8. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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As discussed above, the invention of the claims and the invention which Applicant regards as his invention appear to be inconsistent. For example, claims 3-4, 6 and 8 could be amended similar to claims 2 and 11. In claims 5 and 7, before "said target", --in an area corresponding to-- could be inserted. In claims 1 and 10, what constitutes the target area or below the target area and outside the target area should be clearly and consistently set forth. As best understood, "outside the target area" is the area of the layers below the target area outside the area of the layers directly below the target area.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 4, 6, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Steger et al.

See Figures 1-3, 5-6, col. 1, lines 9-11, col. 2, lines 22-26, 45-51 and 56-65, col. 3, lines 49-55, col. 4, lines 1-9 and 38-52, col. 5, lines 4-6, paragraph bridging cols. 5-6 and col. 6, lines 35-36. The Steger device includes a core which has less superabsorbent and/or slower superabsorbent in an area under the wetting region, i.e. target region, then in the area outside the core area under the wetting region. Since the Steger device includes all the claimed structure, there is sufficient factual basis to conclude that the claimed functions, capabilities and properties

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of such claimed structure, i.e. lines 1-2 of claim 1 and the last two lines of claim 10, i.e.

“wherein...outside said target area”, as best understood, are also inherent in the same structure of Steger, see MPEP 2112.01. It is noted that claim 6 does not require the target area of the core to be of hydrophobic material, i.e. could be just less absorbent than the area outside the target area.

11. Applicant's attention is also directed to the Dabroski '139 reference, col. 3, lines 21-26.

12. Claims 1, 6, and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Raidel, PCT '546.

See Figures 1 and 6, the English translation of Raidel, US '714, at abstract, last sentence, col. 3, lines 4-10, 23-24, 31-34, col. 4, lines 21-55, col. 5, lines 23-35, col. 6, lines 41 et seq, col. 7, lines 29-55, col. 8, lines 42-52. The Raidel device includes a distribution layer 22 and core layer 24 which are more hydrophobic in the area directly below the target area, i.e. the core area does not include superabsorbent or is less dense, than the absorbent core 24a outside the area directly below the target area so that fluid moves preferentially takes place in the x-y plane rather than in the z-direction, i.e. fluid moves in the Z-direction at a slower rate in area below the target area than outside the area below the target area, e.g. at 30 and 24a. Since the Raidel device includes all the claimed structure, there is sufficient factual basis to conclude that the claimed functions, capabilities and properties of such claimed structure, i.e. lines 1-2 of claim 1 and the last two lines of claim 10, i.e. “wherein...outside said target area”, as best understood, are also

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inherent in the same structure of Raidel, see MPEP 2112.01, if not already expressly set forth by Raidel.

13. Claims 1, 3, 5, 7, 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hansen et al '896.

See Figure 10, paragraph bridging cols. 3-4, col. 6, lines 52 et seq, col. 7, lines 46-52, col. 10, lines 52-55, col. 22, lines 38-41, col. 47, lines 28-40. The Hansen device teaches an absorbent core which has or has more superabsorbent and a soluble binder in the area directly below the target region than in the area outside that area directly below the target region. Since the Hansen device includes all the claimed structure, there is sufficient factual basis to conclude that the claimed functions, capabilities and properties of such claimed structure, i.e. lines 1-2 of claim 1 and the last two lines of claim 10, i.e. "A feminine hygiene product" and "wherein...outside said target area", as best understood, are also inherent in the same structure of Hansen, see MPEP 2112.01, if not already expressly set forth by Hansen. With regard to claim 7, the layer 552 distributes fluid and therefore can also be considered a distribution layer. Also see col. 20, lines 25-27.

14. Claims 1-2 and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Weisman et al.

See Figure, col. 1, lines 9-13, col. 3, lines 27-50, col. 5, lines 48-456 and paragraph bridging cols. 8-9. The Weisman device teaches an absorbent core which has a higher density, at 104, in the area below the target area than in the area outside the area below the target region.


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Since the Weisman device includes all the claimed structure, there is sufficient factual basis to conclude that the claimed functions, capabilities and properties of such claimed structure, i.e. lines 1-2 of claim 1 and the last two lines of claim 10, i.e. "wherein...outside said target area", as best understood, are also inherent in the same structure of Weisman, see MPEP 2112.01, if not already expressly set forth by Weisman.

15. Applicant's remarks on pages 6-7 with regard to formal matters have been considered but are deemed moot in that they have not been reraised or are deemed nonpersuasive for the reasons set forth supra. Applicant's remarks on pages 7-9 have been considered but are either deemed moot in that the issue has not been reraised or deemed nonpersuasive. Specifically with regard to Steger, Applicant's remarks about what Steger is "believed" to teach have been considered but are deemed nonpersuasive because the Steger device includes all the claimed structure, i.e. a target area and a slower superabsorbent. What structure is set forth in the claims but not by Steger which would provide the claimed structure but Steger would not?

16. Any inquiry concerning this communication should be directed to K. M. Reichle at telephone number 703-308-2617. The Examiner's regular work schedule is Monday-Thursday.

The Official RightFax number is 703-872-9302.


KIM REICHEL
PATENT EXAMINER

KMR

April 1, 2003